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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/611,877	07/07/2000	Pawan Goyal	4461	7399
758	7590	08/11/2005	EXAMINER	
FENWICK & WEST LLP SILICON VALLEY CENTER 801 CALIFORNIA STREET MOUNTAIN VIEW, CA 94041			CHANG, SUNRAY	
			ART UNIT	PAPER NUMBER
			2121	

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/611,877

Applicant(s)

GOYAL ET AL.

Examiner

Sunray Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20050627.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in responsive to the paper filed on June 15th, 2005.

Claims 1 – 25 are presented for examination.

Claims 1 – 25 are rejected.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1 – 25 are rejected** under 35 U.S.C. 102(e) as being anticipated by Brantley W. Coile (U.S. Patent No. 6,061,349, and referred to as **Coile** hereinafter).

Regarding independent claims 1, 11, 18, and 23 – 24, Coile teaches,

- A method in a computer system [single physical machine] for associating an identifier [handling a plurality of connection requests] with a virtual process [a plurality of virtual machine], [Abstract, Col. 10, Lines 11 – 49]
the virtual process comprising :

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- a plurality of processes [a plurality of virtual machine]; [Abstract, Col. 10, Lines 11 – 49]

the method comprising:

- starting a first process; [a process implemented, Col. 10 Line 11, see also Col. 10, Lines 11 – 49 and Fig. 4A]
- associating the first process with a virtual process identifier [implemented on Local Director]; [Col. 10, Lines 11 – 12, see also Col. 10, Lines 11 – 49 and Fig. 4A]
- creating, from the first process, a second process; [defining virtual machines and binding them to physical machines and ports, Col. 10, Lines 12 – 13, see also Col. 10, Lines 11 – 49 and Fig. 4A] and
- associating the second process with the virtual process identifier. [virtual machine IP address is defined in a step 402, virtual machine ports are defined in a step 404, Binding selected physical machines to virtual machines 408; Col. 10, Lines 14 – 20, see also Col. 10, Lines 11 – 49 and Fig. 4A]

Regarding dependent claim 2,

the virtual process comprises :

- a virtual private server, [Abstract]

the virtual private server comprising :

- a plurality of processes [a plurality of virtual machine] that together provide the functionality of a dedicated server application program [handling a plurality of connection requests, Abstract; the group of machines associated with Local Director are referred to as “servers”, Col. 5, Lines 17 – 18]

Regarding dependent claim 3,

the first process comprises :

- a system initialization process. [a process implemented, Col. 10, Line 11, see also Col. 10, Lines 11 – 49 and Fig. 4A]

Regarding dependent claims 4, 12, and 19,

associating the first process further comprises:

- storing an entry in a data structure; the entry comprising: the virtual process identifier and a process identification number of the first process. [a data structure is created within Local Director that stores the relevant virtual machine and physical machine definitions and bindings, Col. 10, Lines 28 – 31, see also Col. 10, Lines 11 – 49 and Fig. 4A]

Regarding dependent claims 5, 13, and 20,

- intercepting a system call, made by the first process, that creates a process; [a process which is implemented on Local Director for defining virtual machines and binding them to physical machines and ports, Col. 10, Lines 11 – 13, Fig. 4B; see also Col. 10, Lines 11 – 49 and Fig. 4A] and
- associating the process being created with the virtual process identifier of a process that made the system call. [Fig. 5 and Fig. 7; Col. 12, Line, 44 – Col. 13, Line 29]

Regarding dependent claims 6, 14, and 21,

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storing object code comprising :

- instructions to associate the process being created with the virtual process identifier of the process that made the system call; [Fig. 4A; Col. 10, Lines 28 – 49] and wherein intercepting the system call [Col. 10, Lines 11 – 13, Fig. 4B] comprises :
 - replacing [new connection] a first pointer [pointers], which points to object code of the system call [objects], with a second pointer which points to different object code [virtual machine objects], such that making the system call causes the different object code to execute. [a connection object 450 and a connection object 460 contain pointers to the virtual machines and physical machines which correspond to the connections which they represent, Col. 10, Lines 46 – 49, Fig. 4A and Fig. 4B; see also Col. 10, Lines 11 – 67]

Regarding dependent claims 7, 17,

storing object code comprises :

- inserting [implementing, Col. 10, Line 11] the different object code into the operating system. [virtual machine IP address is defined in a step 402, virtual machine ports are defined in a step 404, Binding selected physical machines to virtual machines 408; Col. 10, Lines 14 – 20, see also Col. 10, Lines 11 – 49 and Fig. 4A]

Regarding dependent claims 8, 15, and 22,

inserting the different object code into the operating system comprises :

- loading a module into a running operating system kernel; [implementing, Col. 10, Lines 11 – 49]

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the module comprising :

- the different object code. [virtual machine IP address is defined in a step 402, virtual machine ports are defined in a step 404, Binding selected physical machines to virtual machines 408; Col. 10, Lines 14 – 20, see also Col. 10, Lines 11 – 49 and Fig. 4A]

Regarding dependent claims 9, 10, 16, and 25,

- loading, by a modified loader program [Col. 7, Lines 4 – 53], the first process into computer memory; [Col. 7, Lines 44 – 63]
- starting, by the modified loader program [Col. 7, Lines 4 – 53], the first process; [Col. 7, Lines 44 – 63] and
- storing, by the modified loader program [Col. 7, Lines 4 – 53], an entry in a data structure in computer memory; [Col. 7, Lines 44 – 63]

the entry comprising

- a virtual process identifier and a process identification number of the first process. [Col. 10, Lines 11 – 27]

Response to Amendment

Claim Rejections - 35 USC § 102

3. Applicants' argument regarding "associating the first process with a virtual process identifier" (Page 10, line 1) is disagreed with. Coile discloses a first process as "implementing a process on Local Director" [Col. 10, Lines 11 – 13]. The "implementing process" can be a system initializing process as applicants claimed in dependent claim 3.

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Applicants' argument regarding "creating, from the first process, a second process" (Page 10, lines 1 – 2) is disagreed with. **Coile** discloses "defining virtual machines and binding them to physical machines and ports" [Col. 10, Lines 11 – 13]. The "defining" and "binding" could be the second process created from the first process.

The examiner notes, the term, "originating" in "originating, from the first process, a second process", claimed in former independent claim 1 of proposed amendment [February 3rd, 2005], has been amended to be a different term as "creating" in "creating, from the first process, a second process", clearly pointing out the "second process" is created, generated, from the first process.

Applicants' argument regarding "associating the second process with the virtual process identifier" (Page 10, line 2) is disagreed with. **Coile** discloses "virtual machine IP address is defined in a step 402", "virtual machine ports are defined in a step 404", "Binding selected physical machines to virtual machines 408" [Col. 10, Lines 14 – 20, see also Col. 10, Lines 11 – 49 and Fig. 4A] can be treated as "associating the identifications with virtual machines"

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunray Chang whose telephone number is (571) 272-3682. The examiner can normally be reached on M-F 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Knight can be reached on (571) 272-3687. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-746-3506.

Sunray Chang
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Anthony Knight
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August 4, 2005